IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.M.JAMES

MONDAY, THE 9TH OCTOBER 2006 / 17TH ASWINA 1928

Bail Appl..No. 5738 of 2006()

CRIME NO.573/2004 OF FORT POLICE STATION
AGAINST THE JUDGEMENT/ORDER IN BA.886/2005 Dated 17/02/2005

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PETITIONER/ACCUSED NO.1

SHAJI, S/O. SUDARSAN, AGED 30 YEARS,
K.W.A. CONTRACTOR, THYCAUD HOUSE,
SAI NAGAR, PAPPANAMCODE.

BY ADV. SRI.S.RAJEEV

RESPONDENTS: COMPLAINANT

STATE OF KERALA, REPRESENTED BY
PUBLIC PROSECUTOR.
(CRIME NO.573/04 OF FORT POLICE STATION.)

BY PUBLIC PROSECUTOR, SRI.P.N.SUKUMARAN

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 09/10/2006, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

J.M.JAMES, J.

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B.A. No. 5738 of 2006

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Dated this the 9th day of October, 2006

O R D E R

The petitioner is the first accused in Crime No.573/2004 of Fort Police Station. The offence alleged against the accused, three in number, are under Section 307 I.P.C., read with Section 34 of the Indian Penal Code.

2. When the application came up for consideration, the learned Public Prosecutor submitted that because of the overt acts of the accused, the de facto complainant had sustained, stab wound 2x1x5 cm on the right glutial region; a penetrating stab wound 2x1x4 c.m, on the right scapular region with fracture of outer table of scapula; contusion 2x1 c.m on the upper lip; an incised wound 1x1x1 c.m., on the lateral aspect of left glutial region and; nasal bleeding.

3. The petitioner is before this Court under Section 438 Cr.P.C. The petitioner had approached this Court through B.A.No.886/2005, for a similar relief. It was dismissed by this

Court. The petitioner is again before this Court, on the plea that investigation has progressed much, and that the plea of the de facto complainant that an amount of Rs.75,000/- had been stolen from the dashboard of the car was found to be false. The further submission is that the petitioner had only wrongfully restrained the de facto complainant and, therefore, there is no other overt act attributable to the petitioner. Hence, the counsel submitted that the petitioner may be granted an anticipatory bail.

4. The learned Public Prosecutor, however, countered the above arguments by submitting that the petitioner is a person who is responsible for inflicting injuries, as the petitioner had gone along with two others, at the instance of one Shameenkutty, who had given a loan of Rs.3,50,000/-. It is also further submitted by the prosecutor that the petitioner and others, are the members of a gang, who are used for collection of money, by the money lenders.

5. Without entering into any discussion on the merit of the matter, I direct the petitioner to surrender before the Investigating Officer, who is investigating Crime No.573/2004 of Fort Police Station, on 16/10/2006, between 9.30

a.m and 10 a.m.

6. The Investigating Officer shall interrogate the petitioner and, thereafter, produce him before the court below as per the law.

7. The learned Magistrate, on production of the petitioner shall hear both sides and pass appropriate orders, on merit, on the same day itself.

(J.M.JAMES)
Judge

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